

*****DEATH PENALTY CASE*****
Executions Scheduled for April 20, 24, and 27, 2017

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

LEDELL LEE

PLAINTIFF

v.

Case No. 4:17-cv-256-DPM

LARRY JEGLEY, et al.

DEFENDANTS

DEFENDANTS' RESPONSE IN OPPOSITON TO PLAINTIFF'S
REQUEST FOR A STAY OF EXECUTION

COME NOW the Defendants, and offer the following response to Plaintiff Ledell Lee's request for a stay of execution set forth in his complaint:

1. The Defendants received the complaint in this matter from opposing counsel at 5:16 p.m. The Court has requested any response by 6:00 p.m.

2. As the Court noted earlier today in another case filed by the same Plaintiff, although the Court has power to act based on new facts submitted, Plaintiff's request is much belated, coming late in the day on the date of his scheduled execution. That timing weighs against Plaintiff's requested relief and the Court can and should deny the request for a stay for that reason alone. *See Order, Lee v. Hutchinson et al.*, No. 4:17-cv-194, 195, 196, 198, & 199 (Apr. 20, 2017).

3. Plaintiff now challenges the constitutionality of Ark. Code Ann. §§ 16-112-201 et seq. This statute has never been declared unconstitutional by any court though it has been the subject of many habeas cases and appellate review on many

occasions. Plaintiff himself has had ample opportunity to bring this constitutional challenge in multiple proceedings that were initiated earlier than hours before his scheduled execution, including an Arkansas Supreme Court case decided today in which Plaintiff raised claims related to DNA testing. But Plaintiff declined to bring this constitutional challenge in that proceeding even though he could have done so. Attached to this response is a copy of filings from that case, for the Court's convenience, including the Arkansas Supreme Court's order denying a stay.

5. The request for a stay should be denied.

WHEREFORE, Defendants pray that the request for a stay of executions be denied, and for all other just and appropriate relief.

Respectfully submitted,

LESLIE RUTLEDGE
Attorney General

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Colin Jorgensen, do hereby certify that on this 20th day of April, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF filing system, which shall send notification of the filing to any participants.

/s/ Colin Jorgensen